

L. S. G. (1929) Department.

Ordinary SERIES.

G.O. No. 89 P.H.

DATED 9-1-1929

[Despatch Abstract.]

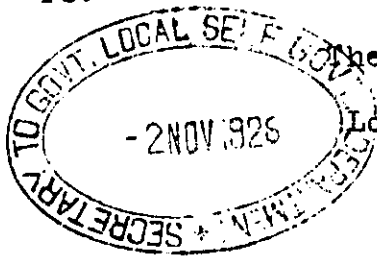
Town Planning---Mangalore Municipal Council---The Block No.10 Market
Ward Town Planning scheme petition from Rao Samba J.J. Fernandez, Bar-at-law,
complaining that sufficient notice was not given to owners of land included
in the scheme and requesting that he may be allowed to put in his objections
not considered.

23

Mangalore,

22nd. October, 1928.

To.



The Secretary to Government,
Local Self Government Department,
M A D R A S.

441/96

Sir,

With reference to notification in the Fort St. George Gazette- No 919 dtd 26th June 1928 sanctioning under section 14 (3 & 4) of the Madras Town Planning Act the Block No.10 Market Ward Town Planning Scheme including buildings and sites belonging to my ward- Miss Matilda Coelho,- as her guardian I beg to point out that no notice was given to me nor was I consulted on behalf of the owner before the said Town Planning scheme was made as required by sec. 11 of the afore said Act and therefore that the said scheme is invalid and not binding so far as my ward is concerned. I therefore beg to insist that the procedure requiring the previous consultation of the owner should be gone through and I should be allowed an opportunity to put in my objection to the said scheme.

I beg to remain

Sir,

Your most obedient servant,

Leo. J. J. Fernandes

From Rao Sahel J. J. Fernandes

Barister-at-Law

Laebapt

Mangalore

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16/11
36
16.11.

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L.S. 8(P.H)

Q no. 44555, From N. R. Ry. Rao Sahib. J. J. Fernandez, Mangalore,
22.10.28

14/11

Nemo 44555-1 D₃ P.H. 15/11/28
The Block no. 10 - Narkah
ward Town planning scheme

21
15/11

A Copy of the letter from N. R. Ry. Rao Sahib J. J. Fernandez, 22.10.28 is forwarded to the C. N. C. Mangalore. He is requested to report at a very early date whether Miss Natilda Coelho or the petitioner was consulted before the ~~lands~~ property referred to therein was included in the above scheme and whether any objections or suggestions were received before the scheme was submd. to the Govt. for sanction. A detailed report on the points raised in the petition should be

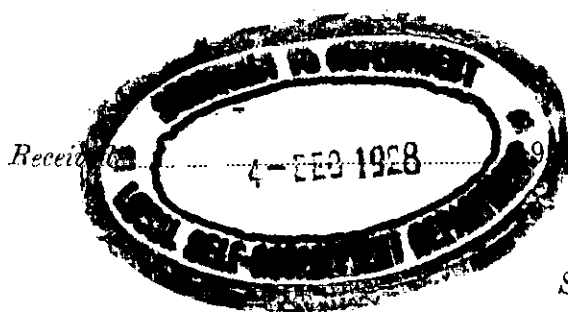
Dpd. by	~~Van~~ Post ✓ Mess. 3
Dpr's. initials.	87
Date	19/11 1928

✓
To the C. N. C. Mangalore (L & N) submitted.

15/11/28
15.11.28

11/15/28

DEPARTMENT.



Received 4-FEB-1928 Registered 688 192

Subject.

Block No.10 - Market Ward - Town Planning Scheme,
Report submitted.

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ENCLOSURES.

No. nil

Spare copies

Ref-C. No. 677-2
28-29.

Station M a n g a l o r e Dated the 1st December 192 8

From (Name) M.R.Ry. Rao Saheb Nellikai Venkat Rao, Avl.,

(Designation) Chairman, Municipal Council,
M a n g a l o r e.

To The Secretary to the Government of Madras,

Local Self Government Department.

p2 aut. - Sir,

Ref:- Government Memo:No.44599-1_D3 dated 15-11-1928.

No individual notice was given to the petitioner or to Miss. Matilda Coelho as it was not -- thought necessary. From advise received from the office of the Director of Town Planning it was understood that the opinion of the Advocate General had been taken on the point and he had advised that no such notice was required in respect of all schemes ordered by Government.

Further light may be thrown on this point by the Director of Town Planning. No such individual notices have been given in respect of other Town Planning schemes also. -- Under the same advice, unlike Town improvement schemes for

This is evidently based on the opinion of the AG on pp 3-4 of the g.o at (P)

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Which notices have been given as in the case of the Guliga Hithlu Scheme. Public notice has however been given in respect of the scheme in question when Government ordered the preparations of the scheme (Vide Fort St. George Gazette No.918 dated 3rd July 1928, and also District Gazette dated 27th March 1927 and 24th August 1927) and also by the Municipal Council in the following local papers as follows:--

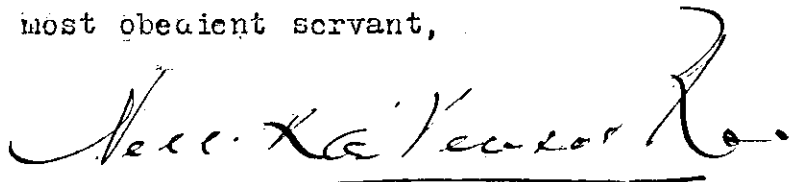
In the Kantcerava on 1st March, 1927 and
2nd August 1927 and
Mangalore Mail on 11th August 1927.

Notice has also been given on the
notice board of the Municipal Office on 22nd February
1927 and 1st August 1927.

I have the honour to be,

Sir,

Your most obedient servant,



Chairman, M. C.

(R)

H.D.U.

CNO-44559, From N. R. Ry. Rao Sahib g.g. Fernandez,
8.22.X.28

The Block No. 10 - Market Ward
Town-planning Scheme - Bangalore -
objections

The Block No. 10, Market Ward
Town-planning Scheme, Bangalore was
(A) sanctioned in G.O. No. 1304 P.H., 8
22-6-28. and The petitioner - Mr. g.g.
Fernandez is the manager of the
properties of Mary Matilda Coelho
Beir whose lands measuring 4 acres
13068 sq. ft have been included in
the above scheme. The petitioner contends
that neither a notice was given nor
he was consulted on behalf of the owner
before the scheme was sanctioned
and that the scheme is therefore
invalid and not binding on the owner.
2. The scheme was called for by
Govt. under Sec. 12 of the N.T. Act,
1920 and a notification to that effect
was published in the Fort St. George Gazette.
The question whether the formalities
prescribed in Secs. 9 to 11 and
sub-sections (1) and (2) of Sec. 14 of the

C of Sec. 1 of the G.O.
at (A)

Act should be gone through in respect of a scheme called for and received under Sec. 12 was raised in connection with the Nambalam Southern Section Town-planning Scheme and the Advocate General gave it as his opinion that there was no need to publish the scheme - c.f pp 3-4 of go no. 2467 Lat, of 6-9-24. It would however appear from the note of Mr. Rama Rao on p. 16 of the said G.O. that the Adu. General expressed ^{in course of an informal discussion that} ~~that in respect of the Nambalam scheme~~ it would be safer to publish and invite criticisms. It is to be noted that failure to publish, and invite criticism ^{will} ~~does~~ not vitiate the validity of a scheme ^{as indicated by} ~~because~~ the ^{words} ~~provisions~~ of Sec. 12 ~~can be applied~~. Notwithstanding anything contained in Secs. 8 to 11 of the Act with which the Sec. 12 begins.

3. In the present case, the scheme was submitted to Govt. for sanction under Sec. 14(2) of the Act and no objections or suggestions were submitted along with it. It was presumed that the scheme was not objected to by anybody and ~~the~~ it was therefore sanctioned under Sec. 14(3) of the Act. ~~It is also observable that~~ ^{Perhaps} before

4. It may be noted in this Connection that Mr. J. A. Saldkanta - N. L. Co. has given notice of a question as to whether the ^{above} scheme ~~is question~~ was published and whether the owners of lands included therein were consulted before it was sanctioned by the Govt. This file ^x has been circulated to M₂ and it has not yet been received back.

$\frac{GPR \cdot S}{15 \times 15.1628}$

157-21

pp 3-4 c.f. @ No. 51688, Faintly C.N.C. Thangalore,

No. 677-2, 2 9 11-28

phob

The Chairman reports that after the publication of the notification calling for the scheme under Sec 12 of the Act, 1920 by the Govt. in the Fort St. George Gazette and the District Gazette, public notice was given by him by publishing the

notification in two newspapers —
Kanteerava on 1-3-27 and 2-8-27
and Mangalore Mail on 11-8-27 —
and affixing it in the notice board
of the Municipal office on 22-2-27
and 1-8-27. He also reports
that no notice was served on the owners
of land included in the scheme as
he was informed by the D.T.P. that
such a course was unnecessary. In
the case of schemes ^{called for} under Sec. 12 of
the Act. As already noted in
para 2 of the notes on pp 1-2 ante,
the A.G. has held that notices
need not be served on owners of
lands included in schemes called for
under Sec. 12 of the Act. In the
present case, sufficient publicity
in respect of the scheme should
be considered to have been ^{given} by the
chairman by publishing the notification
in the local newspapers and ~~the~~ in the
notice board though that was unnecessary
according to the opinion of the A.G.

p 4.0 f

for 3-1
82 2467 ^{Adm}
= 9-14

25/11
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2. With reference to para 4 of the
office note on p 3 ante, please see
G.O. No. 2727 P.H., of 20-12-28. For
~~Sd/-~~ as any other member There were

(H)

p. 1 c. 6 no supplementary questions bearing reference to the objection raised in this file by M. G. G. Fernandez Bin. at. law

3. The petitioner - M. G. G. Fernandez reports that as there was no consultation before the Scheme was sanctioned the scheme is invalid and not binding on his ward, - Miss Matilda Coelho - and insists that he should be allowed an opportunity to put in his objections. The scheme has been sanctioned by Govt. and under Sec. 14(5) of the Act, the scheme has effect as if it were enacted in the Act. In the circumstances, ~~it is~~ ~~the~~ ~~opinion~~ of the A. G. referred to above, it is for orders whether the petitioner may be informed that ^{insufficient notice has already} ~~his request cannot~~ ^{been given to all the} ~~been considered~~ persons interested in the

(A. G.) Scheme for raising objections to it and that his present request cannot be complied with.

Su.
5.1.29

7/5 11/7/1

A draft order is placed below for appl. 11/8/1

A. G. Su.
7/1 8.1.29

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L.S. 8 (P.H.)

CNO. 44599, From N.R.Ry. Rao Sahib g.g. Fernandez

8/22/28

Get
the
order
from
the
N.R.Ry.

9/1

order No. 89 PH 29
This 9.1.

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N.R.Ry. Rao Sahib
g.g. Fernandez is informed
that as the Block No. 10
Market Ward T.P. Scheme
Mangalore sanctioned in
W.G.O. No. 1304 P.H. 8/22.6.28
was one called for under
Sec. 12 of the N.T.P. Act,
1920, there was no need
to observe the formalities
prescribed in Secs. 9 to 11
of the said Act.

The Govt. understand
that the Mangalore Rl. cl.
has nevertheless given
sufficient notice to all the
persons interested in the
scheme. They therefore regret
that they are unable to
comply with the petitioner's
present request to allow an

an opportunity to put in his objections into the scheme.

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 81 8.1.29

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9/1

To Mr. R. G. Rao Sahab
J. J. Fernandez and
Bim Lal Rao
Nangal
Copy to C. N. C. Nangal
(2007)

Dpd. by Post
 Date 10/11 1929